

PATENT COOPERATION TREATY

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04 OCT 2004

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of mailing
(day/month/year)

09.12.2003

Applicant's or agent's file reference
P81473PC00/DCO

IMPORTANT NOTIFICATION

International application No.
PCT/EP02/03990

International filing date (day/month/year)
10.04.2002

Priority date (day/month/year)
10.04.2002

Applicant
TELEFONAKTIEBOLAGET L M ERICSSON (publ)

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 09 DEC 2003

WIPD PCT

Applicant's or agent's file reference P81473PC00/DCQ		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP02/03990	International filing date (day/month/year) 10.04.2002	Priority date (day/month/year) 10.04.2002	
International Patent Classification (IPC) or both national classification and IPC H04L12/56			
Applicant TELEFONAKTIEBOLAGET L M ERICSSON (publ)			



1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 13.10.2003	Date of completion of this report 09.12.2003
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Larcinese, C Telephone No. +31 70 340-4249 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP02/03990

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-14 as originally filed

Claims, Numbers

1-29 as originally filed

Drawings, Figures

1-5 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-29
	No: Claims	
Inventive step (IS)	Yes: Claims	1-29
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-29
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The invention discloses a method (claim 1) for controlling a cell change in a mobile communication network. data is transmitted from a core network to a mobile station in packets. The packets are stored in a RAN before transmission to the mobile. A cell change of a mobile from a first cell served by a first RAN to a second cell served by a second RAN is detected. The corresponding radio access node (claim 18) and core network node (claim 25) are also disclosed.

Such a method, radio access node and core network node are disclosed in the closest prior art D1= WO 01/74095.

The differences between the document D1 and the invention are the following:

- the core network node sends a first message to the first cell RAN
- any data packets stored in the first cell RAN are discarded and a reply message is sent to the core network node
- the discarded data packets are transmitted from the core network node to the second cell RAN.

The problem solved by such technical features is that lost data during a cell change cannot be retransmitted using the current layer protocol.

The document D1 does not suggest or hint at sending a command from a core network node to the radio access node serving the first cell. At the receipt of a reply, the core network node transmits data to the RAN serving the new cell to be sure that all the data intended for the mobile station are sent thereto.

Therefore, claims 1-29 are new and inventive.

Remarks

1. Independent claims 1, 18 and 25 are not in the two-part form in accordance with Rule 6.3(b) PCT
2. The independent claims 18 and 25 belong to the same category, they should be recast in one single independent claim.
3. The independent claim 18 is unclear (Article 6 PCT) because it is defined in

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functional terms. The feature "...discarding any data packet..." should be replaced by : **means for discarding...**

4. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
5. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.